

By: Smith of Tarrant

H.B. No. 3148

A BILL TO BE ENTITLED

AN ACT

1
2 relating to exempting certain young persons who are convicted of an
3 offense involving consensual sex from the requirement of
4 registering as a sex offender in this state.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Article 42.017, Code of Criminal Procedure, is
7 amended to read as follows:

8 Art. 42.017. FINDING REGARDING AGE-BASED OFFENSE. In the
9 trial of an offense under Section 21.02, 21.11, 22.011, 22.021, or
10 43.25, Penal Code, the judge shall make an affirmative finding of
11 fact and enter the affirmative finding in the judgment in the case
12 if the judge determines that:

13 (1) at the time of the offense, the defendant was not
14 more than four years older than the victim or intended victim
15 [~~younger than 19 years of age~~] and the victim or intended victim was
16 at least 13 years of age; and

17 (2) the conviction is based solely on the ages of the
18 defendant and the victim or intended victim at the time of the
19 offense.

20 SECTION 2. Section 5(g), Article 42.12, Code of Criminal
21 Procedure, is amended to read as follows:

22 (g) If a judge places on community supervision under this
23 section a defendant charged with an offense under Section 21.11,
24 22.011, 22.021, or 43.25, Penal Code, the judge shall make an

1 affirmative finding of fact and file a statement of that
2 affirmative finding with the papers in the case if the judge
3 determines that:

4 (1) at the time of the offense, the defendant was not
5 more than four years older than the victim or intended victim
6 ~~[younger than 19 years of age]~~ and the victim or intended victim was
7 at least 13 years of age; and

8 (2) the charge to which the plea is entered under this
9 section is based solely on the ages of the defendant and the victim
10 or intended victim at the time of the offense.

11 SECTION 3. Articles 62.301(a) and (c), Code of Criminal
12 Procedure, are amended to read as follows:

13 (a) If eligible under Subsection (b) or (c), a person
14 required to register under this chapter may petition the court
15 having jurisdiction over the case for an order exempting the person
16 from registration under this chapter at any time on or after the
17 date of the person's sentencing or ~~[after]~~ the date the person is
18 placed on deferred adjudication community supervision, as
19 applicable.

20 (c) A defendant who before September 1, 2009 ~~[2001]~~, is
21 convicted of or placed on deferred adjudication community
22 supervision for an offense under Section 21.11, 22.011, 22.021, or
23 43.25, Penal Code, is eligible to petition the court as described by
24 Subsection (a). The court may consider the petition only if the
25 petition states and the court finds that the defendant would have
26 been entitled to the entry of an affirmative finding under Article
27 42.017 or Section 5(g), Article 42.12, as appropriate, had the

1 conviction or placement on deferred adjudication community
2 supervision occurred after September 1, 2009 [~~2001~~].

3 SECTION 4. Article 62.402, Code of Criminal Procedure, is
4 amended to read as follows:

5 Art. 62.402. DETERMINATION OF MINIMUM REQUIRED
6 REGISTRATION PERIOD. (a) The department [~~council~~] by rule shall
7 determine the minimum required registration period under the Adam
8 Walsh Child Protection and Safety Act of 2006 (42 U.S.C. Section
9 16901 et seq.) [~~14071 (Jacob Wetterling Crimes Against Children and~~
10 ~~Sexually Violent Offender Registration Program)] for each
11 reportable conviction or adjudication under this chapter, if this
12 state is to receive the maximum amount of federal money available to
13 a state as described by that law.~~

14 (b) After determining the minimum required registration
15 period for each reportable conviction or adjudication under
16 Subsection (a), the department [~~council~~] shall compile and publish
17 a list of reportable convictions or adjudications for which a
18 person must register under this chapter for a period that exceeds
19 the minimum required registration period under federal law.

20 (c) To the extent possible, the department [~~council~~] shall
21 periodically verify with the Office of Sex Offender Sentencing,
22 Monitoring, Apprehending, Registering, and Tracking [~~Bureau of~~
23 ~~Justice Assistance~~] or another appropriate federal agency the
24 accuracy of the list of reportable convictions or adjudications
25 described by Subsection (b).

26 SECTION 5. The changes in law made by this Act in amending
27 Chapter 62, Code of Criminal Procedure, apply to any person who, on

1 or after the effective date of this Act, is required to register
2 under that chapter, regardless of whether the offense or conduct
3 for which the person is required to register occurs before, on, or
4 after the effective date of this Act.

5 SECTION 6. This Act takes effect September 1, 2009.